

SENATE BILL 3338

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 9; Title 40, Chapter 33, Part 2; Title 45, Chapter 7, Part 2 and Title 67, Chapter 4, relative to certain fund transfers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding Sections 2 through 7 of this act as a new part.

SECTION 2. For the purpose of this part, unless the context otherwise requires:

(1) "Authorized agent" means a person or entity designated as a licensee under title 45, chapter 7, part 2, to sell or issue payment instruments or engage in the business of transmitting money on behalf of another licensee;

(2) "Commissioner" means the commissioner of revenue or the commissioner's designee;

(3) "Payment instrument":

(A) Means any check, draft, money order, travelers check or other instrument or written order for the transmission or payment of money, sold or issued to one (1) or more persons, whether or not the instrument is negotiable; and

(B) Does not include any credit card voucher, any letter of credit or any instrument that is redeemable by the issuer in goods or services;

(4) "Person" means any individual, partnership, association, joint-stock association, trust or corporation; and

(5) "Wire transmission" means a sale or issuance of a payment instrument or a transmission of money originating in this state by any and all means, including, but not limited to, payment instrument, wire, facsimile or electronic transfer.

SECTION 3.

(a) Any authorized agent in this state which receives money for a wire transmission to a foreign country shall collect from the customer a fee in the amount of twenty-five dollars (\$25.00) per wire transmission.

(b) The authorized agent shall give the customer a receipt setting forth:

- (1) The date of receipt of the money for wire transmission;
- (2) The amount of the fee charged; and
- (3) The amount of the money for wire transmission in dollars and cents.

(c)

(1) The fee imposed pursuant to subsection (a) shall be administered and collected by the commissioner. All fees, penalties, and any interest collected under this part, less the amounts withheld pursuant to Section 5, shall be deposited into the crime prevention fund as established in Section 6.

(2) The fees imposed pursuant to subsection (a) shall be due and payable monthly, on the first day of each month. All authorized agents on or before the twentieth day of each month shall transmit to the commissioner returns showing the information described in subsection (b).

(d)

(1) It is the duty of every authorized agent required to pay a fee under this part to keep and preserve records showing the gross amount of privilege fee owed to the state, and the amount of such agent's sales of transfer instruments feeable under this part, and such other books of account as may be necessary to

determine the amount of fee. All such books and records shall be open to inspection at all reasonable hours to the commissioner.

(2) All such books and records shall be maintained by the authorized agent for a period of three (3) years from December 31 of the year in which the authorized agent is responsible for paying the fee on the transaction or transactions represented by the record.

SECTION 4. In addition to any other applicable penalty, it shall be a Class C misdemeanor, punishable only by fine, for any person to avoid or evade the fee required under this part. Each act in violation of this part shall constitute a separate offense.

SECTION 5.

(a) For the purpose of compensating the authorized agent in accounting for and remitting the fee, an authorized agent shall be allowed a deduction of the fee due, reported and paid to the commissioner in the amount of one half of one percent (0.5%) of the fee imposed pursuant to Section 3. No deduction from the fee shall be allowed if the fees due to the commissioner are delinquent.

(b) For the purposes of implementing and administering this part, the commissioner shall retain one percent (1%) of the fee imposed pursuant to Section 3.

SECTION 6.

(a) There is established within the state general fund a special account to be known as the crime prevention fund. Fee proceeds, interest, and penalties imposed pursuant to this part shall be deposited to the crime prevention fund.

(b) Amounts in the crime prevention fund:

(1) Shall not revert to the general fund of the state but shall, together with interest income credited to the fund, be carried forward into each subsequent fiscal year; and

(2) Shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603.

(c) The director of the Tennessee bureau of investigation shall direct amounts in the crime prevention fund to programs designed to prevent and detect criminal activities. The director of the Tennessee bureau of investigation is authorized to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to carry out the director's responsibilities under this section.

SECTION 7. The commissioner is authorized to promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the implementation of this part.

SECTION 8. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2013, the public welfare requiring it.